Mr. REED. Certainly.

Mrs. BOXER. Because the Senator has made a point that is rather stunning to me. In other words, he is saying that in the Republican proposal which purports to be a Patients' Bill of Rights, if a patient believes he or she has not received the appropriate treatment and there is an internal review—and let's pass over that—and then there is an external review; in other words, people are coming in from the outside to take a look at whether or not you should have had a different treatment for your cancer, let's say, the Senator is saying to me that under the Republican proposal, the very organization that denied you a certain kind of treatment gets to pick the people who are going to decide if that HMO was wrong? So if they pick their friends, naturally, what chance does the patient have? I say to my friend, this seems like a kangaroo court if I have ever heard of one. Does he not agree?

Mr. REED. I agree completely. The Senator is absolutely right. Both the perception of an unfair, unbalanced procedure, and I would also argue the reality, ultimately, will be such that you are not going to get a fair evaluation of your claim.

I cannot conceive of a company—and the HMOs are famous now for their concern for the bottom line—that would go out of its way to retain people who are sensitive to the needs of patients versus the needs of the company and its bottom line. They will pick reviewing authorities who will invariably decide that this expensive procedure, or this inexpensive procedure, is not needed by a patient.

What you are doing also is creating a degree of cynicism about the whole process of appeals. As a result, rather than making a sound, objective, external evaluation of the merits of the case with all the evidence and telling the patient, no, this is not necessary for you, or, yes, it is, a huge legal, bureaucratic labyrinth is created, at the end of which you find yourself facing somebody who basically works for the HMO.

Mrs. BOXER. I wonder, in comparing these two bills, if my friend has made an analysis of the way the Democratic bill treats the appeals process? And can he tell us the difference here?

Mr. REED. The Democratic legislation tries to create, and I think succeeds in creating, a situation where there is an external review where a party who is not beholden to the HMO, an individual reviewing authority outside of the company will review external appeals. It would be truly independent and there would not be a conflict of interest, and that, I believe, is the appropriate way to proceed.

By creating an independent external review procedure, it will, No. 1, strengthen the confidence of consumers that they are getting a fair shake and, No. 2, it will lead to better judgments about the type of health care that should be necessary.

Mr. KENNEDY. Will the Senator yield?

Mr. REED. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. If I understand the Republican proposal, if you had a child, for example, with cancer, and you had a pediatrician, but what you needed was an oncologist for that child, one who is a specialist in pediatrics, and the HMO denied you that, and you believed this was enormously important for the treatment for the child, under the Republican proposal you have no right to appeal that particular decision. I understand that the right to an independent appeal applies only to certain decisions, and a denial of access to a specialist is not one of them. I believe I am correct.

We heard our wonderful friend, Dr. FRIST, yesterday talk about how any child who had cancer would be guaranteed a specialist and everybody said: Doesn't that do the trick? No.

We know you need not just a pediatrician, but as the Senator from Rhode Island knows—as one who has been a leader in the Senate on children's issues regarding access, and has introduced special legislation on this—that child needs a pediatric oncologist. That kind of specialist is absolutely crucial, if that child is to have a fighting chance; but denial of access to that particular specialist would not be eligible for appeal under the majority's program.

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. KENNEDY. Mr. President, I ask for 6 more minutes evenly divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I was just asking whether the Senator's understanding is the same understanding as mine? If the Senator would just reflect on the significance of that, I would appreciate it. How important, really, is specialty care access, I ask the Senator, as an expert on this issue for the treatment of a child?

Mr. REED. The Senator is exactly correct. The way the appeals process is drafted in the Republican legislation, a child who has a serious cancer might be offered the services of an oncologist for adults. In the view of the plan, that would be adequate, sufficient for the purposes of the medical necessity. As a result, the parents of the child, who want access to a pediatric oncologist, may not even get the chance to even protest internally, externally, or in any way.

That is wrong. Frankly, I have been trying to learn as much as I can about pediatric specialties. I, like so many people, once thought an oncologist is an oncologist is an oncologist like a rose is a rose is a rose. It turns out pediatric oncology is a very specialized part of medicine.

I was talking to a specialist recently who pointed out the case of a young child who was discovered with a particular type of cancer and was treated by an adult's oncologist using what is standard procedure for an adult. In fact, using the adult procedure produced additional problems for the child and only further complicated the situation. As a result, the child has to have an additional regime of chemotherapy. All of this could have been avoided, of course, had that child seen a pediatric oncologist immediately.

The provisions in this legislation do not give a fair chance to appeal a denial of access to a specialist like the case I have just outlined. They do not give Americans, but particularly children, a fair chance to get good health care. That is what we want to do and should do.

Mr. KENNEDY. Will the Senator yield just for another moment? It is now approaching 3 o'clock. To the best of my recollection, the good Senator from California, Senator FEINSTEIN, has been here since 10 o'clock this morning, prepared to go ahead and introduce her amendment and has still not been able to do it. There has been an extension of the time limits, evidently because of some negotiations about which all of us are hopeful. But I think we probably could have disposed of the amendment of the Senator and probably the proposal of the Senator from Rhode Island also. I do not know whether the Senator would agree with me or not.

Mr. REED. I do agree. I have been listening to Senator FEINSTEIN's very eloquent and thoughtful comments about the need for access to specialists and the need to have a physician make a decision about your health care and not an accountant.

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. REED. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair, acting in his capacity as a Senator from New Hampshire, notes the absence of a quorum. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of New Hampshire, objects. The clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. NICKLES. Mr. President, for the information of all colleagues, we are still in the process of negotiating a

time agreement on proceeding. We are not quite there. We are getting closer.

Mr. President, I ask unanimous consent that morning business be extended for 30 minutes to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I say to the distinguished whip, I have been here for a long time hoping to offer an amendment to the agriculture appropriations bill.

Can you give me any time when that bill might be coming to the floor?

Mr. NICKLES. I will be happy to respond.

It is our intention that the ag bill will not be the vehicle for the Patients' Bill of Rights or any amendments related to it. The unanimous consent request we are proposing or negotiating would bring up the Patients' Bill of Rights when we return from the Fourth of July break, with the bill to be brought up on, I believe, July 11, to be completed by July 15. So no amendments relating to the Patients' Bill of Rights will be offered on the ag appropriations bill.

Mrs. FEINSTEIN. In exchange for a definitive date of bringing up the Patients' Bill of Rights?

Mr. NICKLES. Correct. Absolutely.

Mrs. FEINSTEIN. We would have minority rights to amend that bill?

Mr. NICKLES. That is correct.

Mrs. FEINSTEIN. I thank the Senator.

The PRESIDING OFFICER. Is there objection the request of the Senator from Oklahoma?

Without objection, it is so ordered.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Washington.

Mrs. MURRAY. It is my understanding that the Democrats now have 15 minutes?

The PRESIDING OFFICER. That is correct.

Mrs. MURRAY. Then I will proceed.

PATIENTS' BILL OF RIGHTS

Mrs. MURRAY. Mr. President, I hope we can work out an agreement, but I rise today really to express my frustration and outrage with the inability of the Republican leadership to allow a fair and open debate on the real Patients' Bill of Rights.

I do not like the idea of tying up must-do appropriations bills to try and force a fair and open debate on access to health care services. However, due to the inability to find a reasonable compromise on the number of amendments, we have been forced to bring this issue to every possible vehicle.

I hope we can work out an arrangement with the majority party to do this and to have our opportunity to offer amendments that we think are very important.

Sometimes we spend far too much time on issues of little significance to the American people. One of the majority's showcase pieces of legislation in 1999 was to change the name of National Airport to the Ronald Reagan Washington National Airport. We spent more time talking about the name change than we have on debating the Patients' Bill of Rights.

When it comes to access to emergency room treatment, or access to experimental lifesaving treatments, we cannot seem to find 3 days for its consideration on the Senate floor. This is the kind of legislation that really does impact American working families. I would argue that it deserves a full and open debate on the Senate floor, allowing us to offer our amendments.

The Republican reform legislation reported out of the HELP Committee is not—and let me repeat, is not—a patients' bill of rights. Oddly enough, it excludes most insured Americans and, in many cases, simply reiterates current insurance policy. It does not provide the kinds of protections and guarantees which will ensure that when you need your insurance, it is there for you and your family.

Let's face it. Most people do not even think about their health insurance until they become sick. Certainly, insurance companies do not notify them every week or month, when collecting their premiums, that there are many services and benefits they do not have access to. It is amazing how accurate insurance companies can be in collecting premiums, but when it comes time to access benefits, it becomes a huge bureaucracy with little or no accountability.

The Republican leadership bill is inadequate in many areas. Let me point out a couple of the major holes that I see in this legislation.

During markup of this legislation in the HELP Committee, I offered two important amendments. The first one was a very short and simple amendment to prohibit so-called drive-through mastectomies.

My amendment would have prohibited insurance companies from requiring doctors to perform major breast cancer surgery in an outpatient setting and discharging the woman within hours. We saw this happen before when insurance companies decided it was not medically necessary for a woman to stay more than 12 hours in a hospital following the birth of a child. They said there was no need for followup for the newborn infant beyond 12 hours. There was no understanding of the effects of childbirth on a woman and no role for the woman or physician to determine what is medically necessary for both the new mother and the new infant.

I offered the drive-through mastectomy prohibition amendment only because an amendment offered earlier in that markup would continue the practice of allowing insurance personnel to determine what was medically necessary—not doctors, not patients, but insurance companies. I offered my amendment to ensure that no insurance company would be allowed to engage in drive-through mastectomies.

My amendment did not require a mandatory hospital stay. It did not set the number of days or hours. It simply said that only the doctor and the patient would be able to determine if a hospital stay was medically necessary. The woman who had suffered the shock of the diagnosis of breast cancer, the woman who was told the mastectomy was the only choice, the woman who faced this life-altering surgery, decides, along with her doctor.

Unfortunately, my colleagues on the other side did not feel comfortable giving the decision to the woman and her doctor. They did not like legislating by body part; and neither do I. But I could not sit by and be silent on this issue. Defeating the medically necessary amendment, offered prior to my amendment, forced me to legislate by body part. And I will do it again to ensure that women facing a mastectomy are not sent home prematurely to deal with both the physical and emotional aftershocks.

For many years, I have listened to many of my colleagues talk about breast cancer and breast cancer research or breast cancer stamps. When it comes to really helping breast cancer survivors, some of my Republican colleagues voted no. I hope we are able to correct this and give all of my colleagues, not just those on the HELP Committee, the chance to vote yes.

The other amendment I offered in committee addressed the issue of emergency room coverage. The Republican legislation falls short of ensuring that when you have a sick child with a very high fever, and you rush them to the emergency room in the middle of the night, the child will receive emergency care as well as poststabilization care. The Republican bill simply adopts a prudent layperson standard on emergency care, not care beyond the emergency.

That means that a child with a fever of over 104 degrees may not receive the full scope of care necessary to determine what caused the fever to prevent the escalation of a fever once the child has been stabilized. As many parents know, simply controlling the fever is not enough; you have to control the virus or infection to prevent the fever from escalating again.

I tried in committee to address the inequities in the Republican bill regarding emergency room coverage. Unfortunately, my amendment was defeated. Let me point out to my colleagues, if they think their language will protect individuals seeking emergency care, they are sadly mistaken.

The insurance commissioner's office in my home State of Washington recently initiated a major investigation of insurance companies that had denied ER coverage based on a prudent layperson's standard. The commissioner's office discovered that despite a